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July 27, 2021

VIA ECF

The Honorable Loretta A. Preska
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: ***Giuffre v. Dershowitz*, No. 19-cv-3377-LAP**
Reply in Support of Letter-Motion for Pre-Motion Discovery Conference

Dear Judge Preska:

I write on behalf of Plaintiff Virginia Giuffre in reply to Defendant Alan Dershowitz's letter of July 26, 2021 (Doc. 323), opposing Plaintiff's request for a pre-motion conference at which she will seek leave to serve on Defendant a discrete set of targeted interrogatories designed to obtain information necessary to analyze recordings the Court has already ordered Defendant to produce, and to ensure that when Defendant is deposed, Plaintiff has the relevant information necessary to conduct a full, informed, and complete deposition.

At the outset, it is important to note what Defendant has *not* said in opposing Plaintiff's request. Defendant has not challenged the relevancy of the information that Plaintiff is seeking. Among other things, Plaintiff's proposed interrogatories seek information about the multitude of surreptitious recordings Defendant made and has relied upon to advance his defamatory allegation that Plaintiff conspired with her prior counsel to falsely accuse Defendant of sexual abuse in an effort to extort money from Leslie Wexner. The Court has already ordered Defendant to produce these recordings to a forensic expert for analysis, and Defendant does not dispute that the information Plaintiff seeks about these recordings is necessary to such forensic analysis. Instead, Defendant argues that Plaintiff can obtain such information during Defendant's deposition or by serving interrogatories afterwards. That, however, is not what Rule 33.3(b) requires. Rule 33.3(b) authorizes interrogatories when they are "a more practical method of obtaining the information sought"—not when other methods of discovery have been exhausted. Plaintiff has explained why interrogatories are a more practical method of obtaining the information she seeks, and Defendant offers no specific response to those facts or cited caselaw. The Court should not delay discovery of this relevant information until a deposition that may not occur for many months given the snail's pace at which Defendant is producing documents, and at which Defendant is unlikely to be able to provide satisfactory answers given the detailed and technical nature of the information Plaintiff seeks.

Interrogatories calling for sworn and complete responses are also necessary because Defendant's unsworn representations by way of his counsel have repeatedly proven to be unreliable. As one illustrative example, Defendant has not produced—and did not even disclose the existence of—a recording he made of conversations with the journalist Julie Brown, a recording to which Defendant has referred in media interviews as supporting his defense. *See, e.g., Emily Rooney, Alan Dershowitz Says Media Is*

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Withholding Exonerating Information, GBH NEWS (Aug. 6, 2020), <https://bit.ly/3rzudbG>. Defendant also did not disclose the existence of or produce in discovery a recording created by Tony Lyons of Mr. Lyons' conversation with Sharon Churcher regarding Plaintiff's allegations in this case, a recording that Defendant had in his possession since at least November 5, 2019. *See* DERSH047430, attached hereto as Exhibit C. This recording is noticeably absent from the index Defendant produced as Exhibit B to his response. (Doc. 323-2). Rather than producing this recording in his required initial disclosures, Defendant waited almost a year, until the eve of his response to Churcher's motion for a discovery conference with the Court, to acknowledge that this recording existed and to produce a copy to Plaintiff. This was after Defendant's counsel had made assurances that all relevant recordings had been identified and produced.

Likewise, the interrogatories aimed at understanding payments to/from Jeffrey Epstein are necessary in advance of his deposition so that Plaintiff's counsel can ask informed questions. The fact that Defendant has produced some information on this topic is not sufficient because defense counsel has repeatedly limited their obligation to produce this information to what they might find in a limited review of Defendant's email and have further refused to produce other financial information such as Defendant's tax returns (despite asking for the same information from Plaintiff), which might enable Plaintiff to gather information on this topic from documents as opposed to interrogatories.

The interrogatory seeking information on Defendant's email accounts falls squarely within Rule 33.3(a) and imposes a minimal burden. Defendant does not suggest otherwise, so he should be ordered to respond.

Finally, the Court should deny Defendant's requests for counter-relief. The Court has already ruled on the issue of the parties' depositions and made clear they should proceed only after document discovery has been substantially completed. *See* Order, Doc. 281 (April 9, 2020). Defendant has only barely begun to produce documents from his Harvard account despite requests for production pending for over a year and half. Moreover, it has been an unforeseen global pandemic, not Plaintiff's choice, that has prevented Plaintiff from traveling to the United States for her deposition. With respect to Plaintiff's responses to Defendant's interrogatories, unlike Defendant, the Plaintiff did provide responses—even to interrogatories beyond the scope of Local Rule 33.3(a). *See* Ex. A, Pl's Objs. and Resps. To Def's First Set of Interrogs., Doc. 323-1 (Feb. 28, 2021). Defendant has never raised with the Plaintiff the alleged deficiencies he enumerates in his letter to the Court, as he is required to do by the rules, so any request for relief is not properly before the Court at this time. Even if the Court were to consider Defendant's request, a review of Plaintiff's responses makes clear they comply with her obligations under the rules. Moreover, Defendant's second interrogatory is outside the scope of appropriate discovery as explained by Plaintiff's pending request for a protective order. Defendant's third interrogatory calls for the precise sort of narrative response that Rule 33.3 disfavors and is not at all akin to the types of interrogatories Plaintiff is seeking to serve on Defendant, and Defendant's fifth interrogatory seeks information that Defendant has refused to provide and that Plaintiff, at least, has provided to the extent she is able in her document productions. For all of these reasons, Defendant's requested relief should be denied.

Respectfully,

/s/Nicole J. Moss
Nicole J. Moss

cc: Counsel of Record

EXHIBIT C

From: alandersh@gmail.com
Sent: Tuesday, November 5, 2019 11:35 AM EST
To: Alan Dershowitz
Subject: Churcher. New Recording 30.m4a
Attachments: ATT00001.bin.htm, ATT00002.bin.htm, ATT00003.bin.htm

[Download Attachment](#)
Available until Dec 5, 2019
